

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG, PA

AUG 21 2001

ERIC JOSEPH EPSTEIN)

Plaintiff,)

v.)

SPENCER ABRAHAM, Secretary of the)
U.S. Department of Energy; HERBERT)
WATKINS, Contracting Officer, U.S.)
Department of Energy)
Defendants.)

Civ. No. 01-0682
Judge Kane

MARY E. D'ANDREA, CLERK
Per 9/18 Deputy Clerk

**FEDERAL DEFENDANTS' UNOPPOSED MOTION TO POSTPONE
PRETRIAL SCHEDULING CONFERENCE PENDING THE COURT'S
RESOLUTION OF DEFENDANTS' MOTION TO DISMISS**

Federal Defendants hereby move the Court to vacate its August 14, 2001 order scheduling a case management conference pending the Court's resolution of Defendants' motion to dismiss and, in support thereof, state as follows:

1. Plaintiff filed a complaint on April 19, 2001;

2. The Federal Defendants filed a motion to dismiss the complaint on June 18, 2001;

3. Plaintiff, proceeding pro se, filed a brief in opposition to the motion on July 17, 2001 and Federal Defendants filed a reply on August 1, 2001;

4. The Court has scheduled a case management conference for September 21, 2001;

5. Federal Defendants respectfully submit that if the Court grants Federal Defendants' motion to dismiss then the issues before the Court regarding the management of this pro se case would be resolved. If the Court denies Defendants' motion, there would be ample time at that point for the parties to develop a case management plan for the Court.

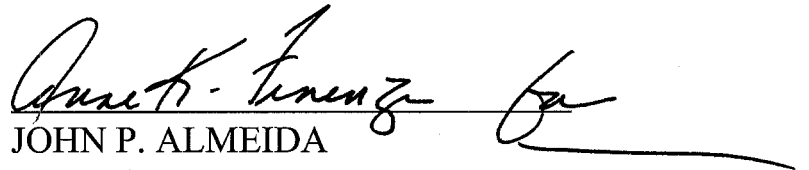
6. As indicated in the attached certificate of concurrence Mr. Eric Epstein, pro se Plaintiff, concurs in this request.

7. Intervenor Defendant Exelon takes no position on this motion, however Exelon indicated its desire that this action be resolved as expeditiously and efficiently as possible, and defers to the Court regarding the timing of a scheduling conference.

WHEREFORE, Federal Defendants respectfully ask this Court to grant their motion to vacate the present scheduling order.

Respectfully submitted,

JOHN C. CRUDEN
Acting Assistant Attorney General

A handwritten signature in black ink, appearing to read "John P. Almeida", is written over a horizontal line.

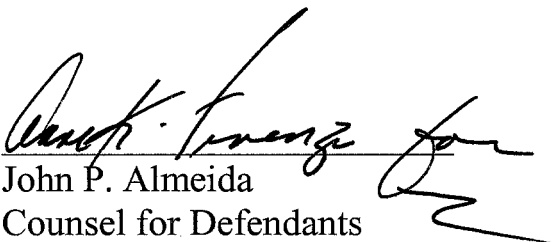
JOHN P. ALMEIDA
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U.S. Department of Justice
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P.O. Box 663
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(202)305-0245 (telephone)
(202)305-0506 (fax)

Attorney for Defendant

DATED this 21st day of August, 2001.

CERTIFICATE OF CONCURRENCE

The undersigned hereby certifies that in accordance with Local Rule 7.1, counsel for Federal Defendants sought and was granted concurrence from Plaintiff. Counsel for Intervenor Defendant indicated that Intervenor Defendant takes no position on this motion.



John P. Almeida
Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of August, 2001 a copy of the foregoing MOTION TO POSTPONE PRETRIAL SCHEDULING CONFERENCE and PROPOSED ORDER has been served on Plaintiff and Intervenor Defendant by first-class United States Mail at the following addresses:

Eric Joseph Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

Brad Fagg
Morgan, Lewis & Bockius
1800 M Street NW
Washington, D.C. 20036


REBECCA A. PLESIC
Legal Secretary
United States Attorney's Office

DATED this 21st day of August, 2001